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ABSTRACT

In November 1971, the Arkansas State Advisory Committee to the United States Commission on Civil Rights conducted a two-day open meeting in West Memphis, Arkansas, to examine the problems of black people living in the Delta region of Arkansas. More than 40 people were invited to express their views concerning the problems of black people living in the Arkansas Delta. Issues related to the political participation of blacks in local and State government were discussed, and the administration of justice as it relates to black citizens in the Delta was examined. Also discussed was the manifold economic and social welfare problems of blacks living in the region. The present document is a report of the principal findings of the open meetings and subsequent investigations. The contents of the report include an introductory section, findings and recommendations, appended communications and Arkansas statutes, and three chapters, entitled respectively: The Economic and Social Welfare Conditions of Blacks in Eastern Arkansas, Political ParticiPation of Blacks in the Arkansas Delta, and The Administration of Justice in the Arkansas Delta. (Author/JM)

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BLACKS IN THE ARKANSAS DELTA

A report of the Arkansas State Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission.

March 1974

UD 015 714

ATTRIBUTION

The findings and recommendations contained in this report are those of the Arkansas State Advisory Committee to the U. S. Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and the Congress.

Prior to the publication of a report, State Advisory Committees afford any individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses received in timely fashion are incorporated, appended to, or otherwise reflected in the publication.

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U. S. COMMISSION ON CIVIL RIGHTS

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PREFACE

The United States Commission on Civil Rights created by the Civil Rights Act of 1957 is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

The State Advisory Committees

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

Recommendations to the United States Commission on Civil Rights

This report was submitted to the United States Commission on Civil Rights by the Arkansas State Advisory Committee. The conclusions and recommendations in this report are those of the Committee and are based upon its evaluation of information received during two days of open meetings on November 5 and 6, 1971. This report has been received by the Commission and will be considered by it in making its reports and recommendations to the President and Congress.

FOREWORD

Normally, when a State Advisory Committee holds an open meeting and prepares a report for publication, the report is published within a few months after the close of the meeting. This report on the Arkansas Delta is being released more than two years after the open meeting. Nevertheless, the Arkansas Advisory Committee feels that the following report is a timely and useful document.

This report presents a thorough overview of socioeconomic conditions in an eight-county area which is one of the poorest regions in the Nation. Followup inquiries and studies made by the Arkansas State Advisory Committee and Commission staff (some of which are noted in the report) illustrate that the conditions prevailing in 1970-71 have changed little since the open meeting; thus, publication of the report in 1974 still provides a useful documentary yardstick to measure progress and growth in the region.

Events subsequent to the open meeting demonstrate that the problems of human relations, racial tensions, and political participation explored in that meeting are much the same today. The same people who testified at the meeting (as well as those who were invited but chose not to appear) are involved in the daily problems of the Delta. Thus, we feel that the findings and recommendations in this report are still valid and worthy of attention.

Finally, the civil rights problems of the Delta are not those which can be explained or exemplified by a single event or series of events. They are problems of long standing and are endemic in the daily lives of the residents of the region. Consequently, we feel it is important to call attention to these problems even in times when there are no "incidents" that command the attention of the news media. We hope that publication of this report will focus attention on the problems of the Delta and how they can be corrected.

Morton Gitelman, Chairman
Arkansas State Advisory Committee

INTRODUCTION

In November, 1971, the Arkansas State Advisory Committee to the United States Commission on Civil Rights conducted a two-day open meeting in West Memphis, Arkansas, to examine the problems of black people living in the Delta region of Arkansas.

More than 40 people were invited to express their views concerning the problems of black people living in the Arkansas Delta. They discussed issues related to the political participation of blacks in local and State government, and examined the administration of justice as it relates to black citizens in the Delta. They also discussed the manifold economic and social welfare problems of blacks living in the region. This is a report of the principal findings of the open meetings and subsequent investigations.

The conditions summarized in this report have not been resolved and may even have been compounded since the open meeting was held in West Memphis. However, it is hoped that this report will serve to intensify public awareness and understanding of the conditions in the Arkansas Delta region; and, in turn result in constructive action at the Federal, State and local levels to deal effectively with the problems outlined in this report.

CHAPTER ONE

THE ECONOMIC AND SOCIAL WELFARE CONDITIONS OF BLACKS IN EASTERN ARKANSAS

Introduction

According to the 1970 census, the total population of the eight counties--Crittenden, Cross, Lee, Mississippi, Monroe, Phillips, St. Francis, and Woodruff--that make up the Arkansas Delta region is about 246,900. More than 50 percent, or approximately 130,500 of the population in the Delta region, is black.[1/]

In 1970, the total labor force in the eight-county area was approximately 85,100. Of this number, about 31,300 or approximately 37 percent were blacks. The average unemployment rate for the State in 1971 was 5.4 percent. In contrast, the average unemployment rate for blacks in the eight-county area ranged from a low of 9.3 percent for black males, 16 years old and over, in Monroe County to a high of 18 percent in Woodruff County. For black females, the unemployment rate ranged from a low of 9.4 percent in Woodruff County to a high of nearly 22 percent in Phillips County.[2/]

Because of the lack of jobs and economic opportunity in the Delta, there has been a significant outward migration of both blacks and whites between 1960 and 1970. The Bureau of the Census estimates that during the late 1960's, the net migration loss in the eight-county area was

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1 / U. S. Bureau of Census. Census of Population: 1970. General Population Characteristics. Final Report PC(1) - B5. Arkansas

2 / U. S. Department of Labor. Manpower Report of the President. March 1972 Table D-4. Total Unemployment Rates by State: Annual Averages 1961-71, p. 232. Also, 1970 General Social and Economic Characteristics. Final Report PC(1) - C5 Arkansas. Table 127

18 percent. When analyzed on a county-by-county basis, the magnitude of this population shift becomes clear. For example, Lee County had a population of 18,884 in 1970 compared to 21,000 recorded in 1960. This represented almost a 10 percent drop in population over a 10-year period. Monroe County, according to the 1970 census, has a population of 15,657. This figure represents a 10 percent decline in population from 1960. St. Francis County lost approximately 2,600 people over a 10-year period.[3/]

The overall loss in population is also mirrored in many of the county subdivisions in the Delta. In almost every instance. the township lost population while the cities within these townships gained. For example, in Lee County, every township except Independence, lost population. At the same time, the town of Moro increased its population by 169 percent between 1960 and 1970. The City of Marianna has an overall increase in population of almost 21 percent, and the town of Rodondo has an increase of about 73 percent. The townships in Monroe and St. Francis counties also experienced a similar pattern of population decline while their urban centers showed an increase from 1960 to 1970.[4/]

Huey Peterson of the Arkansas Employment Security Division explained that this shift in population is mainly due to the changing economic structure of the Delta region and eastern Arkansas in general. According to Mr. Peterson, 20 years ago agriculture was the main source of employment in the region. With the increase in farm mechanization, the number of people employed in agriculture has declined drastically. Industry, has

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3/ U. S. Bureau of the Census. Census of Population: 1970. General Population Characteristics. Final Report DC(1) - B5 Arkansas.

4/ Ibid.

not been able to absorb those people displaced by farm mechanization. As jobs were lost and new industrial and commercial opportunities failed to materialize, the population decline accelerated. The lack of economic opportunities in the region has caused most of the young people, as well as many of the older residents of both races, to leave the Delta region and seek better opportunities elsewhere in the State.[5/]

Although poverty is a serious problem in eastern Arkansas, the region's economic stagnation has been especially difficult for the black population. While the median income for a white family in the Delta ranged from a high of $6,241 in Crittendent County to a low of $4,043 in Lee County in 1969, the median income for a black family ranged from a high of $3,404 in the Cross County to a low of $2,308 in Woodruff County. Nearly three quarters of the black families and approximately one-third of the white families in the region earned less than $3,000 per year in 1969.[6/]

5/ Transcript of the Open Meeting Before the Arkansas State Advisory Committee to the U. S. Commission on Civil Rights, West Memphis, Arkansas, November 5-6, 1971 at pages 49 and 50, (hereinafter cited as West Memphis Transcript).

6/ U. S. Bureau of the Census. Census of Population: 1970 General Social and Economic Chatacteristics. Final Report PC(1)-C5. Arkansas

Manpower Programs in the Arkansas Delta

To counter the severe economic problems and develop the human resources in eastern Arkansas, the Department of Labor has implemented a number of manpower training programs in the Delta region. One such program is the Concentrated Employment Program (CEP). George Worley, Director of the CEP explained that this program is designed to serve a target area encompassing 14 counties in the Delta. Between October 15, 1970, and October 15, 1971, approximately 1,804 pre-enrollee contacts were made in Crittenden, Cross, Lee, Phillips, and St. Francis counties. According to Mr. Worley, the CEP in these five counties alone enrolled approximately 979 persons. About 290 received immediate orientation and assessment and were placed directly into a job. In the entire 14 county target area, the program served approximately 2,120 people. Over 1,400, or about 85 percent of those served, were black. 7/

Of the 979 persons initially enrolled in the CEP, 585 received some kind of training; 263 went into basic education; 144 went into vocational training; 164 were assigned to on-the-job training programs; and 14 were referred to a vocational school for special training.

7/ West Memphis Transcript at 54.

The net result of these activities was that approximately 300 persons were placed in jobs in the five-county area even though the region has a very large population with a high rate of unemployment. When asked why the program had not been more effective in its placements, Mr. Worley said that the program was underfunded for the job it had to do. As a result, the size of the staff was so small that it could not adequately serve the people living in the target area. He also noted that approximately 65 percent of the funds received by the program are earmarked for enrollee services, and stipends, and only 35 percent are used to actually operate the program.[8/]

Responding to allegations that much of the training received through the CEP was irrelevant and meaningless to the enrollee in terms of actual job preparation, Mr. Worley pointed out that the economic situation governs the number of people that can be placed into employment. He also said that many of the jobs for trainees had to be developed. As a result, the initial training given to CEP enrollees often does not fit the job where they are ultimately placed. He also explained that in making these placements, some trainees have to be moved to areas where employment exists.[9/]

8/ Ibid at 57.

9/ Ibid at 59.

James L. Dickens, Manpower Development Specialist with the Department of Labor, pointed out that there were five major manpower programs enrolling approximately 1,500 people in the Delta funded by the Department of Labor. These programs were the Neighborhood Youth Corp (NYC), both In-School and Out-of-School; Operation Mainstream; and the Public Employment Program. Also included within this broad spectrum of manpower programs in the Delta were the National Alliance of Businessmen (NABS), and the Job Opportunities in the Business Sector (JOBS) programs. According to Mr. Dickens, approximately 85 percent of all the training slots in these programs during 1971 were occupied by blacks.

Office of Economic Opportunity (OEO) Programs in the Delta

Many witnesses also said that Federal funds allocated to various OEO programs in the Delta were not reaching the poor in the form of direct services. They felt that these programs were using a large portion of their funds to pay for administrative salaries rather than to provide services. Several witnesses charged that of approximately $10 million in Federal monies channeled into eastern Arkansas, the only visible result has been a day-care center and some manpower programs.

Countering these allegations, Lytle Hampton, a program planner for the East Central Office of Economic Opportunity noted that during the 1970-71 fiscal year, his agency contacted and worked with nearly 16,000 persons through various community organizations operating in the Delta. He also pointed out that approximately 2,900 contacts were made

during the course of the year through the agency's medical services program. The Headstart Program, sponsored by the East Central Arkansas OEO, enrolled over 300 children during the 1970-71 school year, and nearly 800 young people were enrolled in the NYC program. In addition, approximately 29,500 persons in the Delta were served by an emergency food and medical services program operated by this agency.[10/]

Mark Stapp, Director of the OEO program in Monroe and Phillips Counties, explained that the enormity of the problems in eastern Arkansas is such that "it will dwarf whatever efforts we make with the funds currently available." Thus, while progress has been made during the past few years, the lack of funds has been, and will continue to be a major limiting factor.[11/]

Health and Social Services in the Delta

The problem of providing adequate health services to the poor in the Arkansas Delta is acute. The area is plagued by shortages of medical personnel and health facilities. In many cases, Delta residents have to travel to Little Rock to receive specialized health care. Mark Stapp explained that the present situation in the Arkansas Delta encompasses two closely related problems. First, people in the area have a tremendous health problem due to extreme poverty conditions. Secondly, there is a lack of health facilities to take care of the problem.[12/]

The problem is accentuated by the reluctance of doctors in the area to accept Medicaid patients. Earl Anthes, Acting Director of Respect, Incorporated, said that no doctors in Crittenden County will accept new

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10/ Ibid at 112, 113.

11/ Ibid at 115.

12/ Ibid at 120.

Medicaid patients. In West Memphis, it was alleged that few clinics will take in patients under this program. In St. Francis County it was reported that only three or four doctors will readily accept people on Medicaid. It was noted by some that those doctors who have helped patients on Medicaid in the past have been forced to discontinue the service because the State was inordinately slow in reimbursing them.[13/]

The inability of the Veterans Administration (VA) to reach the rural poor, and especially the black veteran, was also discussed. Mr. Anthes noted that the VA in Arkansas is limited to offices in the State Capitol and in the VA Hospital which also happens to be in Little Rock. There are offices in a number of other cities not located in the Delta. In the rural areas, the VA is dependent mainly on the numerous veterans organizations to provide contact services. According to Mr. Anthes, most contact people in the Delta are white; and, at best, they are not familiar with the needs of the black veteran and his family. At worst, they are openly hostile to them.[14/]

The problem of providing essential services to the poor in eastern Arkansas goes beyond the provision of health care. It is also reflected in the administration of a whole range of programs such as welfare, food stamps, and commodity distribution. Mr. Anthes remarked that these programs "generally fail to the extent that they involve, or are dependent upon local administrative policy making."[15/] He further noted that the local, decentralized administration of social welfare probrams was not superior to those programs administered by "outsiders." He also stated:

13/ Ibid at 160-161.

14/ Ibid at 161.

15/ Ibid at 153.

> ...the local administration of these programs can be effective only when those local decision makers are concerned with the problems and are committed to the objectives of the program. This unfortunately is demonstrably not true in numerous social service programs in the Delta. 16/

One of the reasons cited as to why the programs were not as effective as they should be was that the Community Action Agencies (CAAs) who operate them must depend heavily on county judges and other local politicians for support. This fact of political reality, Anthes contends:

> ...somewhat overrides the CAA's charged responsibility to press for improved service to the poor. It is a naive assumption to think that one can sweet talk the welfare department into providing adequate and courteous service to poor folk, but that is the only alternative left to the CAA; the real CAA decision makers, the county judges, will cut the program off. It is a choice between survival, or kind of giving up on the fight, and I think very few agencies are going to commit suicide. 17/

Many witnesses also complained of the operation of the Arkansas Department of Social and Rehabilitative Services formerly known as the Welfare Department. Their major concern was the operation of the Public Assistance and Food Stamp Programs. The Department of Social and Rehabilitative Services administers four important programs in the State: public assistance, medical services, food stamps, and the distribution of commodities. At the time of the West Memphis meeting, the commodities program was operational in only four counties, while the food stamp program was operational in 71 counties.

Donald R. Hoagland, assistant Director of the Food Stamp Program, explained that the program is jointly operated by the Department of

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16/ Ibid at 154.

17/ Ibid.

Agriculture, and the State Department of Social and Rehabilitative Services. The objective of this program is to provide better diets for low-income families throughout the State. Mr. Hoagland also pointed out that all applicants must be certified by the Family Services Division of the Department of Social and Rehabilitative Services before they become eligible to receive food stamps. The county governments, on the other hand, usually furnish the offices and other facilities where the stamps are issued.

Witnesses testifying before the Arkansas State Advisory Committee said that the Food Stamp Program had been less than adequate for low-income people living in eastern Arkansas, and that the Department of Social and Rehabilitative Services was not responding to the needs of black citizens living in the Delta. They further alleged that this agency was more concerned with minimizing participation rather than in serving people, and that State and Federal regulations were being consistently violated in the administration and conduct of the public assistance and food stamp programs.[18/]

There are also allegations that there had been consistent failure on the part of program administrators to accurately compute income for the food stamps program. Mr. Anthes further alleged that welfare administrators and staff members failed to inform applicants or recipients of their right to appeal the agency's action. Additional allegations stated that violations were consistent in the food stamp certification process, especially with regard to seasonally employed persons.[19/]

18/ Ibid at 155.

19/ Ibid at 155, 156, and 157.

The question of sensitivity on the part of welfare officials was also raised. It was alleged that staff on some of the county welfare departments in the Delta region were not able to relate to, or communicate effectively with welfare applicants and recipients, particularly across racial lines. The relationship between the welfare worker and the recipient was often characterized as being strained and one of anxiety. 20/

Questions were raised concerning the equity of procedures in the Department of Social and Rehabilitative Services' administrative hearings. According to Mr. Anthes, hearings have been held where the referee took the side of the agency against a welfare recipient though the records indicated that the recipient was correct. On another occasion, Mr. Anthes said he had asked to be shown the regulatory authority for procedures used by the department. The referee reportedly replied: "I don't have to tell you a Goddamned thing, boy." 21/

Mr. Anthes felt that with this kind of attitude and procedure, there is little that can be done about gross mistreatment, harassment, and bureaucratic runaround of the welfare clients. This includes, he said, questions like, "who are you sleeping with now?", to threats of having the children taken away; or a father being told he is unfit because he cannot support his children. Mr. Anthes concluded:

> ...because of the treatment given by welfare administrators and staff, many people living in the Delta have refused to return to the Welfare Office regardless of need because of their past treatment and their expectations of continued mistreatment. 22/

20/ Ibid at 157, 158.

21/ Ibid at 158.

22/ Ibid at 158.

One facet of the problem is that very few blacks are employed by State agencies having responsibility for distributing welfare and other social services to people living in the Delta region.[23/] Olly Neal, Chief Administrator of the Lee County Cooperative Clinic, said that there were no blacks employed at the supervisory level by any State agency in Lee County, and very few were employed throughout the Delta. He also commented that in one county in the Delta where almost 80 percent of the welfare recipients are black, no blacks were serving on the welfare board.[24/]

In summary, the information gathered during the two days of open meetings in West Memphis emphasized both the frustrations of the black community in eastern Arkansas and the inability of the white community in this area to acknowledge the needs of black people. Many witnesses felt that the problems facing both communities have not diminished despite the passage of civil rights legislation over the years; instead, they seem to have increased with the growing polarization of the races in the Delta region.

23/ According to Mr. Carl D. Agers, Administrative Assistant, Office of the Governor, of the 7,804 persons employed in the Department of Social and Rehabilitative Services during 1972-73, only 755 or approximately 13 percent were black. Of the 913 persons employed by the State Health Department only 46, or less than 5 percent are black. The employment situation for blacks in the State Employment Security Division is slightly better. As of 1972, 124 blacks were employed by this agency out of a total work force of 849. Overall, blacks comprised about 15 percent of the total work force in this agency. According to the 1970 Census, blacks constitute about 18.3 percent of the population in the State of Arkansas. Correspondence from Carl D. Agers, Administrative Assistant, dated August 8, 1973.

24/ West Memphis Transcript at 223, 224.

CHAPTER TWO

POLITICAL PARTICIPATION OF BLACKS IN THE ARKANSAS DELTA

One objective of the State Advisory Committee's two-day open meeting in West Memphis was to examine the political participation of blacks living in the Arkansas Delta. Many witnesses appearing before the State Advisory Committee alleged that the local law enforcement agents, as well as governmental political party officials, were engaged in actions which tend to bar, deter, or reduce political participation of blacks in the Delta, especially in Lee County.

Probably the most sensitive of all problems brought before the Arkansas State Advisory Committee was the alleged exclusion and interference with black poll watchers during the 1970 general elections. The election laws of the State of Arkansas grant each candidate, or his appointed representative, the right to remain at each polling place to observe the balloting and the tabulation of ballots after the polls have closed. Arkansas Revised Statutes 3-714 and 3-715 define this right,[25/] and it was the interpretation and failure to enforce these statutes that caused many problems in the 1970 election.

25/ See Appendix A. Arkansas Statues 3-714 and 3-715.

Among the allegations of election violations were:

1. That poll watchers for black candidates were told to stay at least 100 feet away from the polls where they were in no position to observe and challenge voters.[26/]

2. That local law enforcement officials threatened black poll watchers and supporters of black candidates.[27/]

3. That Sheriff's deputies or individuals representing themselves as deputies, appeared at one precinct and insisted that all judges and clerks sign the certificates of election. This allegedly occurred 30 minutes after the polling place had opened. These certificates should not be signed until after the polls close and the ballot boxes are sealed.[28/]

4. That while white poll watchers and voters had almost unlimited freedom of movement within polling places, black poll watchers and voters were restricted.[29/]

5. That some judges and clerks at polling places divided the ballots so that poll watchers could not observe the total counting of the votes.[30/]

6. That candidates had asked to review the absentee applications and the accompanying affidavits but were denied by Lee County courthouse personnel.[31/]

7. That requests for recounts were denied.[32/]

26/ West Memphis Transcript at 264, 355, 356, 359, 360.

27/ Ibid at 265, 355, 357, 358, 360.

28/ Ibid at 354, 397, 411.

29/ Ibid 356, 400.

30/ Ibid 361.

31/ Ibid 404, 412, 417.

32/ Ibid 404, 412, 417.

Several instances of harassment and intimidation of black poll watchers were reported. Thomas Ishmael, candidate for county judge in Lee County, said that many of his poll watchers were either rejected, or told to go home and return after the polls had closed.[33/]

It was also pointed out by witnesses that there was little consistency in the handling of poll watchers. They said that differences in the interpretation of the Election Code resulted in some watchers being allowed to stay within a polling area while others were asked to leave.

Incidents of intimidation by local law enforcement personnel were also cited. For example, Mr. Ishmael stated that on election day:

> ...the County Sheriff.../called in/ all his deputies, and Justices of the Peace, to be on hand with their guns at the polls..., and that was a means in my way of thinking, of harassing the voters, especially the black voter....[34/]

Mr. R. C. Henry, a black public school teacher from Marianna, remarked that on the night the ballots were being counted, poll watchers were authorized to go in and watch the ballots being tabulated. However, upon entering the counting area, they were told that they had to sit or stand away from the area where the ballots were being counted. As a result there was no way that the poll watchers could tell whether the election officials were counting the ballots correctly. According to Mr. Henry, when they pointed out this discrepancy to the County Sheriff citing the Arkansas Election Code, the Sheriff reportedly stated:

33/ Ibid at 353.

34/ Ibid at 354.

> ...Damn the book. I run this town...I am so damned tired of this mess that's been going on all day. That is what he said, and he told us, "now I don't want to argue. I am not going to argue with you." So, one of the other gentlemen... started to say something, and he said, "shut up," ..."hell, let me say something," and he called the lawyer over and he said, "I don't care what they do. If they don't do what you tell them to do, we have a jail over there to hold them."35/

In addition to alleged harassment and intimidation of black poll watchers and voters, it was claimed that election officials failed to provide adequate voting facilities. Judge Haskell Adams, testifying before the Committee, substantiated this charge by justifying the failure of election officials to carry out the law regarding poll watchers because of inadequate facilities. He stated that in one precinct in Marianna (Ward III, Precinct 1), the "poll watchers were asked to stand outside because some of the election places were so small that the watchers were practically sitting in there with the judges and clerks."36/

In other testimony regarding voting facilities, Robert Morehead, a black attorney and Assistant Attorney General of the State of Arkansas, stated that:

> It was also significant to note that by ...the afternoon, the temperature had dropped considerably and there was a misting rain; that with all the room in the polling place they were admitting the voters one at a time, forcing those who wanted to vote to stand out in the cold rain. Needless to say, this was a discouraging experience and some of the voters left.37/

35/ Ibid at 361, 362, see also Appendix B for statement of response by S. C. Langston, Sheriff.

36/ Ibid at 259.

37/ Ibid at 401.

Mr. Morehead also commented on a number of incidents involving intimidation. He noted that a young, white VISTA volunteer, who had come from West Memphis to help a car pool transport black voters to the polls, was arrested and fined for a violation of an Arkansas Statute which requires that an out-of-state individual must register his vehicle within thirty days. The officers did not pay any attention to the fact that the car he was driving was not his.[38/]

Testifying further on acts of intimidation, Mr. Morehead noted that:

> ...the most obvious form of intimidation going on was the freedom of movement of the numerous law enforcement officials at the polling places, and the lack of freedom of movement of blacks, even voters, and the fact that every automobile that came up with a black driver, this particular policeman was taking down license numbers, while white voters were moving freely in and out of the place.[39/]

It appeared during the open meeting that the inability of those protesting election irregularities to appeal their case was as critical as the violations. There seemed to be no avenue for appeal in either party, or through the State government. Several witnesses testified of the inability of black citizens to secure a hearing to appeal the election results. Some felt that those allegedly involved in election discrepancies also had the responsibility for enforcing the election laws. In some cases, individuals responsible for enforcing the election laws made themselves unavailable to those seeking redress of a grievance.

38/ Ibid at 399.

39/ Ibid at 400.

In short, the machinery for enforcing the election laws broke down in Lee County during the 1970 elections. Witnesses said that the breakdown was typical for the entire Delta region.

One reason for the lack of confidence in the election appeal procedures or in the fairness of the elections in the Delta by blacks is the absence of blacks on the various county election commissions. Each county election commission consists of three commissioners, one each from the two major political parties in the county, and one other person, usually from the majority party. These commissioners, are appointed by the State Election Commission. Witnesses felt that with the present structure and make-up of these county election commissions, black citizens could never expect to "get a fair shake in elections."[40/]

A great deal of confusion during the election resulted from conflicting interpretations of the Arkansas Election Code. Mrs. Betty Bernard, the Republican member of the Crittenden County Election Commission, said she thought that the Arkansas election code, as now written, is "probably the most ambiguous, confusing piece of material by which we must conduct our elections."[41/]

She cited one incident that occurred during the 1970 election describing the frustrations experienced by election officials in their efforts to secure an official interpretation of election rules and procedures:

40/ Ibid at 417, 419.

41/ Ibid at 435.

> We were having a particular situation in Earle, whereby the city government had interpreted the election code to read that no written material could be brought into the polling place. Well, this is really almost essential for our area, because we have such a large number of illiterates in both black and white communities; and, so one member of the Attorney General's Office had said that it was entirely proper to bring written material describing the candidates, and election procedures into the polling places.
>
> [However,] the city government in Earle had heard another interpretation...so they had the officers taking printed material out of the voters hand as they would come in to vote. In fact they were almost frisking them looking for some printed material, a little piece of paper, newspapers, or anything like that...and jerk it away from them. I was most frustrated about this. 42/

She further stated:

> We tried to get the Attorney General's Office and absolutely could not get it in any way, shape, form or fashion, because it was closed election day. We did finally contact an assistant in the Attorney General's Office later that day and asked him for his interpretation on this. He said that it was entirely proper. We then asked if he could relate this to our city attorney who was standing by in West Memphis, and to the head of our election commission. However, once we got these parties on the phone, the assistant in the Attorney General's Office in Little Rock could no longer be reached. 43/

Ben Grinage, former executive director of the Arkansas Voter Education project,said that many cases have been documented where blacks have been denied participation in the election processes. He also asserted that the State has not taken the necessary steps to alleviate these conditions except to record the incidents that have occurred in the State of Arkansas, particularly in the Delta area. 44/

42/ Ibid at 450, 451, 452.

43/ Ibid at 452, 453.

44/ Ibid at 457.

Despite the fact that black citizens constitute over 45 percent of the population in the Delta, very few hold any kind of political office. Allegations were made at the West Memphis open meeting that blacks were being denied the right to participate in the political processes of their local governments. This denial is reflected in the absence of blacks on the various county election commissions, in the interference with black poll watchers by local law enforcement and election officials, and in the harassment and intimidation of black voters. It is also reflected in the way blacks perceive the political process in the Arkansas Delta.

CHAPTER THREE

THE ADMINISTRATION OF JUSTICE IN THE ARKANSAS DELTA

The Arkansas State Adivsory Committee during the two-day open meeting heard many charges of widespread discrimination against blacks by law enforcement officials ranging from inadequate police protection to actual physical violence. Evidence presented to the State Advisory Committee indicated that blacks living in the Arkansas Delta have been and still are subjected to unduly harsh treatment by law enforcement personnel. It was also reported that blacks tend to receive penalties disproportionately severe compared to those imposed on whites for the same acts. In addition, it was alleged that law enforcement officials tend to treat crimes perpetrated by black citizens against other blacks very casually.[45/]

Everett Sheldon, chairman of the Black Consumers organization in Forrest City, charged that there was virtually a "dictatorship" in eastern Arkansas. He said that the present political structure in the Delta had allowed many miscarriages of justice.[46/]

Mr. Sheldon told the State Advisory Committee that he had gone to the Sheriff's office in Forrest City to see about bond payments for blacks who had been arrested by the local police. He was subsequently arrested for "disturbing the peace" and thrown in jail with the bond being $150. After being incarcerated, the bond was reportedly increased to $250. When Mr. Sheldon's wife tried to pay the bond, she was also arrested and thrown in jail for disturbing the peace.[47/]

45/ See Appendix C for statement Ted Goodloe, Attorney at Law.

46/ West Memphis Transcript at 179, 180.

47/ Ibid at 184.

Frank Cochran, of Forrest City, cited an incident where he and other blacks were mistreated by local law enforcement officials, when he tried to settle a family disturbance. Mr. Cochran related the incident as follows:

> My brother and I tried to settle it, and in the process of doing this, a police officer and an auxiliary officer came to our neighborhood to see what it was all about... when he came he found that everything had been settled, and in the process of his investigation ...I inquired to one of my relatives about him. In some way or another he got to talking with the officer, and the officer called me "boy," and I called him "pig" for calling me "boy," and right after that...he pulled his gun to shoot me, and in the process of shooting at me, my cousin stopped him and carried me inside the house. 48/

Mr. Cochran was arrested and while he was being interrogated, he alleged that he was mistreated. He said the police wanted him to make a statement and he refused to do so until he had access to a lawyer. The officer then "decided to slap me around, and beat me a little bit." 49/

When his family came to check on the situation they were also jailed. Others who had tried to post bond for the Cochrans were also arrested and incarcerated on minor charges. Before the Cochrans were released that night, they received word that some Klansmen were waiting for them. They requested protection from the Sheriff and the Police Department, and were refused. As soon as they stepped outside they were attacked by a large group of whites. Mr. Cochran related the following:

48/ Ibid at 383.

49/ Ibid at 384.

> My brother said, "come back, it's a trap." He was trying to get back inside the jailhouse and the jailer pushed him out. He said, "You niggers are to be free today. ....don't be afraid now, go on out." He pushed us on out and everything. Once we were outside, I noticed the Klansmen punching one of the tires, the tires on the car, and my father said they were going to use knives on us, and we all got in the car and were going to try to make it anyway in the car, on the flats and everything, but, before we could, they had broken the windows and beat my uncle on the side of his head, then all of the fighting was taking place right there...50/

This allegation typifies the belief expressed by many blacks in the Delta that the police are not responsive to the needs of the black community, and that blacks are not treated by police in the same manner as other citizens.

Testimony of witnesses also indicated that law enforcement officials have interfered with black organizational efforts to improve the economic and social well-being of black citizens. This was vividly illustrated in a series of incidents that occurred in Marianna during August, 1971. R. C. Henry, a teacher in Marianna, said that during a black community sponsored Selective Buying Program, a group of black citizens were passing out handbills on the streets asking blacks to refrain from shopping in the downtown area. A large group of white people gathered nearby. At the same time, there was also a number of law enforcement officials in the area. However, Mr. Henry stated:

50/ Ibid at 387.

> ...a few moments later all of the policement disappeared, and, during this time, we were literally run from the street, and, it was at least forty-five minutes or more before we saw any law enforcement officers back on the street... 51/

He also said that other blacks had been harassed or interfered with by local officials during the boycott. Students were told to leave the streets even though they were not passing out handbills. Other people, Mr. Henry said, who were participating in the Selective Buying Program, were kicked. When they complained to the police about these incidents, the only thing they would say is that "we will take care of it" but nothing -- according to Mr. Henry -- had been taken care of. 52/

Prentiss Neal, from Marianna and coordinator for the Selective Buying Campaign, described another incident in which a black person was allegedly arrested and fined on insufficient grounds:

> ...a black lady named Miss Quincy Tillman went to a local cafe...and ordered a pizza, a two-dollar pizza...one of the white policemen had leased this place, and he was in charge...so Quincy went there, and ordered a pizza, after some discussion with the lady who was making the pizza, she decided she didn't want it... So, our good friend, the policeman, arrested her, threw her in jail, and charged her a $200 fine for, I have forgotten, false pretense is what she was charged with. So, when her brother went down to the jail to bail her out,... they threw him in jail also. 53/

Witnesses pointed out that very few black law enforcement officials are employed in eastern Arkansas, and those who are employed often face

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51/ Ibid at 309.

52/ Ibid at 311.

53/ Ibid at 332.

severe restrictions in their contacts with white people.[54] Prentiss Neal described one situation:

> There is a black deputy sheriff. His job is very precarious...he cannot arrest white people, and he realizes this. So, he has assumed the role of arresting no one at all... When the sheriff sends him out, he says ... Olly, you go out to so and so's house, and arrest him. I will call them and tell them you are coming out. This is the only way he will arrest a white person. The only way he can arrest anybody.[55]

Mr. Neal continued:

> Another way you can be a black policeman...you can harass and beat up black people only. Now, there was a case in particular where we had a black policeman who really believed in his job. He thought he should arrest both black and white. He pursued his job in this manner. He tried to do this and they fired him. I mean, he was very zealous about his job...and he did his job as far as I was concerned. He arrested both black and white. Regardless of who disobeyed the law, he was there on the scene. But they fired him.[56]

Witnesses also described an incident that occurred during the height of the boycott in Marianna when the brakes in Judge Adams' pick-up truck allegedly malfunctioned causing his vehicle to swerve towards two black pickets. When this occurred, the pickets attempted to have the judge arrested. One witness stated:

> We went over to see the police chief to try to have this man arrested. He told us this was out of his authority, and that we should go see the sheriff.

54/ As of 1973, there were only four blacks out of a total work force of 570 employed by the Department of Public Safety in Arkansas. Correspondence from Carl D. Agers, Administrative Assistant, Office of the Governor, dated August 8, 1973.

55/ Ibid at 333.

56/ Ibid.

> We went to the sheriff. The sheriff said it's not within my authority. Go see the prosecuting attorney...as we were talking to the sheriff in comes the county judge himself. He, the judge, pulls his gun, and says: "You Niggers, get out of here. I run the courthouse. I will kill the whole pack of you lying sons-of-bitches," you know...
>
> So, we left, with him pointing his gun...
>
> We got to the Prosecuting Attorney and the attorney asked us if the gun was loaded,...and did he intend to kill us? This is the type of questions he asked us...
>
> Of course, we knew we were going in a circle. We believe in due process of law, so we were going through these things.[57]

Charges were also made alleging that certain law enforcement people in the Delta have a close connection with the Klan. The black mayor of Madison, William Whittaker, stated that many county officials in the Delta are associated with the Klan.[58]

Lonell Anderson, President of the St. Francis County branch of the National Association for the Advancement of Colored People (NAACP), described the Klan's influence in the Delta region:

> ...Klansmen are in the sheriff's department, and, also, in the police department. I do believe that the sheriff works very close with the Klansmen.[59]

Mr. Anderson continued:

> ...unless there is something done to protect the Negroes, and the poor whites, I want to make this clear, your poor whites that are not connected with the Klan movement don't have a lot of voice, and they don't have much more freedom

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57/ Ibid at 340, 341. See also Appendices D & E for statement of response by James K. Caughley, Chief of Police, Marianna Police Department, and Judge Haskell A. Adams, of Lee County.

58/ Ibid at 492 - 498.

59/ Ibid at 379, 380.

> of speech than the blacks. I want to make that very clear. I do have this feedback, and I do know your poor whites is getting pretty much some of the same treatment that the blacks are getting, so far as injustice in our courts there and harassment by the police...The poor whites are getting this, but not as much as the blacks, and so far as blacks are concerned, the blacks have no protection at all, no protection at all there.60/

To conclude, many witnesses testifying before the State Advisory Committee in West Memphis felt that blacks in eastern Arkansas, and throughout the State suffer undue discrimination in the administration of justice. Several also alleged that inequities are perpetrated against blacks, including unequal protection and enforcement of the laws, police intimidation, and brutality, and above all, insensitivity to the needs of the black community.

60/ Ibid at 380, 381.

FINDINGS AND RECOMMENDATIONS

Based upon investigations by both State Advisory Committee members and Commission staff, the Arkansas State Advisory Committee to the U. S. Commission on Civil Rights submits the following findings and recommendations.

ECONOMIC AND SOCIAL WELFARE CONDITIONS

FINDING # 1: The Arkansas State Advisory Committee found that while the various manpower programs in eastern Arkansas have had some impact on the serious unemployment problems found in the area among blacks, they are seriously limited in their outreach and in the number of enrollees they can place in training slots because of inadequate funding.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that:

1. The U. S. Commission on Civil Rights recommends that the President seek and the Congress enact legislation substantially increasing funding to the Department of Labor in order to upgrade and expand present manpower and other social welfare programs;
2. The State should explore the possibility of establishing a special economic development district in the Delta region to enhance the movement of new industries into the region, and increase employment opportunities;

3. That the Arkansas Employment Security Division facilitate the development and utilization of the manpower resources of the Delta region. This can be done by:

(a) Assisting local communities in the Delta to assess manpower needs and potentials;

(b) Assisting local employers in job restructuring to facilitate the employment of the unemployed;

(c) Encouraging the coordination of all agencies and organizations concerned with economic development; and,

(d) Developing the employability of the poor and others presently unable to compete in the labor market through greater emphasis on manpower training programs in the region. These programs should immediately expand their outreach, orientation, counseling, education, supportive services and job placement components;

4. The State immediately utilize general and special revenue sharing funds to increase the development of manpower resources in the Delta and throughout the State;

5. That the various county and municipal governments located in the Delta region take steps to increase black participation in programs designed to provide increased employment opportunities and economic development in the area, coordinating their activities

more with the local Community Action Agencies in the region.

FINDING #2: The Arkansas State Advisory Committee found that the problems in providing adequate health care to the poor in eastern Arkansas are acute. It also found that the area suffers from a serious shortage of medical personnel and health facilities.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that:

1. The Governor appoint a committee to study the health problems of blacks in eastern Arkansas. The mandate of the committee would be:

   (a) to survey available data on health conditions of the blacks living in the region;

   (b) to explore sources for funding special programs and health clinics in the area;

   (c) to work closely with the State Legislature, professional organizations such as the American Medical Association (AMA) and local organizations such as the Lee County Cooperative Clinic, and centers of higher education to develop a comprehensive medical program for the region.

2. That the State of Arkansas and hospitals in Little Rock and in communities within the Delta develop and expand present health programs to educate the poor, especially in rural areas, in basic preventive health care.

3. That the State of Arkansas encourage the development of rural clinics in eastern Arkansas, and throughout the State to serve low-income families living in areas which presently lack adequate health facilities.

FINDING #3: The Arkansas State Advisory Committee found that enforcement of Federal civil rights laws regarding services purchased under Medicaid has been overlooked by some county welfare departments in the Delta, and only noted on a token basis by the Arkansas Department of Social and Rehabilitative Services.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that:

1. The U. S. Department of Health, Education and Welfare conduct an investigation into the operation of the Medicaid program in eastern Arkansas and if discriminatory services are found -- as this Committee believes -- the Department of Health, Education and Welfare should take appropriate action.

2. The Arkansas Department of Social and Rehabilitative Services immediately investigate all doctors, dentists, nursing homes, hospitals, and other recipients of medical vendor payments under Medicaid in eastern Arkansas regarding services to the poor and blacks.

FINDING #4: The Arkansas State Advisory Committee found that equal employment opportunity in most of the county welfare departments and the State Department of Social and

Rehabilitative Services is almost non-existent. While some improvement has occurred, it is evident that the agency is reluctant to employ blacks on more than a token basis.

RECOMMENDATION: The Arkansas State Advisory Committee Recommends that:

1. The State Department of Social and Rehabilitative Services and the various county welfare departments publicize openings and actively recruit black employees.

2. The State Department of Social and Rehabilitative Services:

   (a) Evaluate its present promotion practices and employment data on job levels of black employees to assess existing barriers to equal employment opportunity for blacks at all levels;

   (b) Whenever possible, prepare a program to undo existing patterns of under-utilization of black employees.

3. In lieu of the above, the U. S. Department of Health Education and Welfare institute a thorough and immediate investigation to be conducted by the Office for Civil Rights (HEW), into the employment practices of the Arkansas Department of Social and Rehabilitative Services.

FINDING #5: The Arkansas State Advisory Committee found considerable evidence to support the contention that staff on some of the county welfare departments is lacking in ability to communicate with welfare applicants and recipients, particularly across racial lines.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that:

1. The State Department of Social and Rehabilitative Services and the various county departments, in selecting staff, give more emphasis on cultural, racial, and social sensitivity along with formal academic training.

2. That State Department of Social and Rehabilitative Services bring about a black-white ratio in all units of its staff which is at least consistent with the racial proportions in the State.

3. The State Department of Social and Rehabilitative Services initiate an intensive in-service program whereby its staff can be sufficiently trained regarding the values and culture of poor people, particularly blacks.

4. The State Department of Social and Rehabilitative Services conduct an intensive review of its procedures which may cause some misunderstanding on the part of welfare clients. In addition, the State Department of Social and Rehabilitative Services should immediately identify administrative procedures which may have kept welfare applicants and recipients from fully realizing their rights. This should cover such matters as staff attitudes, arbitrariness on the part of caseworkers, provision of information, and other aspects of welfare rights. Where necessary, the State Department of Social and Rehabilitative Services should take steps to correct these matters.

POLITICAL PARTICIPATION

FINDING #1: The Arkansas State Advisory Committee found that blacks in Lee County were discriminated against through the following means:

1. the interference of black poll watchers by local law enforcement officials and election officials;
2. the tampering of ballot boxes;
3. the harassment and intimidation of black voters; and
4. the failure of the election commission to provide for adequate accommodations.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that the Civil Rights Division of the U. S. Department of Justice conduct a complete investigation into the election processes in the Arkansas Delta to determine the extent of discrimination against black voters and their denial to participate in the political processes of their local and State government. If violations are found, the Civil Rights Division of the Justice Department should take appropriate action against those officials and persons perpetrating such violations.

The State Advisory Committee also recommends that the U. S. Commission on Civil Rights recommend to Congress that it amend the Federal Voting Rights Act to provide for Federal observers to be made available to candidates

in general State and local elections in areas where previous complaints relating to discriminatory practices have been received and verified by the Department of Justice.

The State Advisory Committee further recommends that the Arkansas State Legislature should take steps to guarantee and enforce the right of all citizens to participate in the political process. The State should also undertake affirmative action through the Attorney General's office to provide for minority group representation in political party structures and county election commissions.

FINDING #2: The Arkansas State Advisory Committee heard allegations that very few blacks serve on the county election commissions. This has represented a denial of the full participation of blacks in the political process.

RECOMMENDATION: The State Advisory Committee recommends that steps be taken immediately to insure equal opportunity for blacks to serve on county election commissions in the Arkansas delta. The Committee feels that the Governor of Arkansas should closely examine this gap in representation.

The State Advisory Committee also recommends that the major political elements in the counties should take

immediate steps to eliminate all vestiges of discrimination at the county level and take affirmative action to see that blacks are fully represented in the county election commissions.

FINDING #3: The Arkansas State Advisory Committee found a number of possible violations of Arkansas Election Laws in Lee County. Arkansas Election Statutes 3-714 Challenge of Voters, and Section 3-715 Candidate, Political Party or Representative at Counting of Ballots were alleged to have been violated during the 1970 elections in Lee County.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that the Secretary of State and the State Election Commission conduct a complete investigation into possible violations of the Arkansas Election Code during the 1970 and 1972 county elections.

FINDING #4: Witnesses stated that there was interference with poll watchers in the 1970 elections. This interference is in violation of Section 3-715 of the Arkansas Code.

RECOMMENDATION: The State Advisory Committee recommends that the Secretary of State investigate and press charges in case of violation.

FINDING #5: Witnesses stated that a great deal of confusion that occurred during the Lee County Elections in 1970

resulted from conflicting interpretations of the Arkansas Code. Witnesses also stated that the Code as now written is ambiguous and confusing.

RECOMMENDATION: The Arkansas State Advisory Committee strongly recommends that the State Legislature should consider reviewing the State's Election Code. If necessary, the Legislature should further consider simplifying and revising the State Election Code to remove ambiguities and misunderstandings relating to the conduct of elections.

ADMINISTRATION OF JUSTICE

FINDING #1: The Arkansas State Advisory Committee found through evidence presented at the open meeting that black citizens are victims of unequal protection of the law. Among frequent charges of discriminatory treatment against blacks, the State Advisory Committee heard the following: that blacks were often harassed or intimidated by white police officers, that blacks were generally placed in jail for relatively minor offenses, and crimes perpetrated by black citizens against other blacks were treated very casually and with little concern by white law enforcement officials.

In addition, there were strong allegations in the open meeting that the few black police officers have been discriminated against by having their arrest powers over whites severely restricted.

RECOMMENDATION: On the basis of these charges, and subsequent follow-up by the Commission staff, and because the police officials, even though invited to the open meeting, did not participate, the State Advisory Committee recommends that the Civil Rights Division of the U. S. Department of Justice conduct a thorough investigation of the administration of justice in eastern Arkansas.

FINDING #2: The Arkansas State Advisory Committee found disturbing indications that local and State officials have not responded to the needs of black citizens in the Arkansas Delta; and, that there was a general distrust by blacks of the willingness of law enforcement agencies in the Delta to protect blacks. There were also disturbing allegations that some police officials are members of, or associated with the Klan.

RECOMMENDATION: The Arkansas State Advisory Committee recommends that:

1. The Governor, and the Attorney General's office appoint a factfinding committee to study the law enforcement agencies and the administration of justice, in general, as it now functions in the Arkansas Delta region. The mandate of the committee would be:

(a) to survey the present situation in the Delta and how blacks perceive the administration of justice in the Delta;

(b) to study possible ways of upgrading local law enforcement agencies in the Delta in terms of training and facilities;

(c) to explore the possibility of recruiting more blacks for local law enforcement agencies; and,

(d) propose recommendations for change in the way justice is administered in the region.

2. The Arkansas Legislature should consider subsidizing local units of government in order to allow them to establish a realistic level of wages for local law enforcement officers and seek more qualified candidates for local law enforcement agencies.

3. The U. S. Commission on Civil Rights should recommend to the Law Enforcement Assistance Administration (LEAA) that it carefully review the practices of all Arkansas law enforcement agencies applying for Federal funds to assure their compliance with Title VI of the 1969 Civil Rights Act which prohibits discrimination in employment where Federal funds are involved.

APPENDIX A

ARKANSAS STATUTES
1947
1956 Replacement
Comprising Statutes of a General and Permanent Nature Including Those Enacted by the Sixtieth General Assembly
1955

3-714. CHALLENGE OF VOTERS--Right of candidate or representative--procedure--During the progress of any election in this State, any candidate in person or by representative designated in writing, shall have the right to be present for the purpose of challenging any voter who appears for the purpose of casting a ballot in any election precinct, and when the ballot of any voter is thus challenged, it shall be the duty of the judges and clerks in said election precinct to make and retain a list of the names of all such persons so challenged. The ballots of all such persons shall be counted, preserved and separated from the remaining ballots to the end that the right of any such person to vote may be later determined either by the County Board of Election Commissioners or, in a primary, the County Committee or the Court in which an election contest may thereafter be filed. If a candidate or his representative or a voter challenges a person's right to vote, said challenge shall be communicated to the judges before such person is permitted to vote by the sheriff or some other officer or person in attendance and in charge of admission to the polling place, and when this is the case the witnesses necessary to determine the matter of the voter's qualifications shall be admitted. (Acts 1969, No. 465, Art 7, §14, p.1195.)

3-715. CANDIDATE, POLITICAL PARTY OR REPRESENTATIVE PRESENT AT COUNTING OF BALLOTS--After the polls have been closed, any candidate or political party may be present in person or by representative designated in writing at the count of the ballots in any election for the purpose of determining whether or not such ballots in any such election precinct are fairly and accurately counted; and said candidate, political party or authorized representative shall be premitted (permitted), upon request being made to a judge or clerk, to inspect any or all ballots at the time the same are being counted. Such representatives of political parties may be designated and authorized by either the Chairman and/or the Secretary of the State or County Committee, and representatives of candidates may be designated and authorized by the candidate represented. (Acts 1969, No. 465, Art 7, § 15, p. 1195; 1971, No. 261, § 12, p. 559.)
(Compiler's Note: the word "permitted" was inserted by the compiler.)
(Amendment: The 1971 amendment added the last sentence.)

APPENDIX B

COURTNEY LANGSTON
SHERIFF and COLLECTOR
LEE COUNTY
MARIANNA, ARKANSAS 72360

August 30, 1972

United States Commission on Civil Rights
Washington, D. C. 24025

Attn: Isaiah T. Creswell, Jr.

Regarding your letter August 24, 1972, wherein the information given your committee in November, 1971. Transcript of your meeting states that a R. C. Henry, formerly of this city, quotes me, "Damn the book. I run this town...". I emphatically deny this and I further deny stating, "shut up Sterling, hell...". I also deny using abusive language advising anyone in the counting room that " I had a jail over there to hold them".

If there was harassment as alleged by Mr. Henry it came from the poll watchers who were creating a disturbance in the counting of the votes in the absentee box. I was ask by a member of the election commission to see that the commotion and confusion ceased while the members of the election box were counting the votes.

For your information I trust the above is satisfactory.

Yours very truly,

S. C. Langston,
Sheriff

SCL:na

APPENDIX C

45

JOHN W. WALKER
PHILIP E. KAPLAN
RICHARD L. MAYS
TED GOODLOE
AL J. DANIEL, JR.

ATTORNEYS AT LAW
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OF COUNSEL
WILEY A. BRANTON
625 SIXTH STREET, S.W.
WASHINGTON, D. C. 20024
PHONE: 202—554-8448

November 15, 1971

Professor Morton Gitelman
University of Arkansas School of Law
University of Arkansas
Fayetteville, Arkansas

Dear Professor Gitelman:

In response to your questions about justice in Eastern Arkansas and my inability to testify due to the flu, I am sending you the following observations in letter form.

Generally my experiences have shown that the misdemeanor criminal fines are more sever than in Little Rock. Persons violating the peace receive huge fines with jail terms for repeaters. The only explanation is that Eastern Arkansas whites are very retributive-- "an eye for an eye".

The whites in the law enforcement system are low economic whites far removed from the power structure. This includes all law enforcement officials--judges to deputy sheriffs. The police must spend more time patrolling the black neighborhoods because a municipal court day will have more black defendants than whites. The law enforcement whites are removed from local politics and business, therefore, these officials only see blacks as defendants.

With the exception of civil rights leaders who are prosecuted for political reasons, most blacks are charged with with an offense and receive punishment in a manner which is sever but consistent. There does not seem to be a disproportionate number of cases where the defendant receives additional charges due to the hostility of the police. Whites receive the same punishment with more consideration for the facts of the case. A black defendant is not a person which a judge or jury can identify with as they can a white defendant. My guess is that the whites that appear in the court room are the few incorrigibles that no one knows what to do with other than to lock them up. Therefore, blacks who have violated the law, but if they were white would either not be prosecuted or receive a more than fair trial with a defendant's verdict, have uniformly stiff

verdicts administered.

If the above has not been too confusing I could make a conclusion more confusing. To me blacks receive no justice whatsoever. To the law enforcement officials, blacks receive the same treatment as whites--excepting civil rights leaders of course. The police come from a very low economic level which is very racist, the police patrol the black neighborhoods with higher frequency than the white neighborhoods, the police, prosecutors, and judges cannot identify at all with black defendants and the reasons which have resulted with a minor infraction of the law are incomprehensible for whites, and the system is very punitive.

Therefore, the white police officers, prosecutors, and judges probably take this Civil Rights Commission as an insult.

If I could be of any further assistance please do not hesitate to call on me.

Very truly yours,

Ted Goodloe

TG:amp

APPENDIX D

48

CITY OF MARIANNA POLICE DEPT.

CITY HALL • MARIANNA, ARKANSAS 72360 • 501 295-2508

JAMES K. CAUGHLEY, SR.
Chief of Police

September 14, 1972

United States Commission of Civil Rights
Washington, D. C. 20425

Attention: Isaiah T. Crewell, Jr.
Assistant Staff Director

Dear Sir:

I acknowledge receipt of your letter of August 24, 1972, enclosing your "Summary of Material" which you state was enclosed in the transcript of your November, 1971,meeting at West Memphis, Arkansas.

The following is my office's response:

In speaking of the curfew, Mr. Neal says there were 24 State Troopers in our town at one time, and this is certainly true. They did, in fact, enforce the curfew during their stay, as we enforced it after their absence.

In response to Mr. Clark's question: Was the curfew imposed in the white community equally? Mr. Neal stated that the curfew was not equally imposed. The court records here reflect that from the period of June 11, 1971, to January 2, 1972, the period in which the curfew was effective, there was a total of 266 black arrests in relation to a total of 281 white arrests. There were probably not any more than 25 actual curfew arrests and certainly no violator of the curfew ordinance was charged anything near $200 for such violation. Therefore these statements are categorically denied.

As to the incident relating to County Judge Adams: The incident was reported to me by Prentiss Neal and Rabon Cheeks. Judge Adams reported that he had a brake failure. I immediately summoned a mechanic, who made an investigation of the condition of the brakes and affirmed a mechanical defect. Thereupon I felt that the issuance of a warrant was not justified and refused to do so. A discussion followed about the sheriff, and I told him to see the sheriff if he expected a warrant to be issued because I was not going to issue one from my office.

With reference to the discharge of a black policeman, I cannot be sure what this allegation is about. During my tenure in office I have had four black policemen. I have discharged one of them and that was brought about when I caught him in a deliberate lie made in response to a direct inquiry I made of him.

If further information is required of my office, call upon me.

Very truly yours,

James K. Caughley Sr.

James K. Caughley, Sr.
Chief of Police

APPENDIX E

TO: UNITED STATES COMMISSION ON CIVIL RIGHTS AUGUST 31, 1972

FROM: LEE COUNTY JUDGE HASKELL A. ADAMS

VERIFIED ANSWER

I, Haskell A. Adams, being first duly sworn, state on oath that the facts contained in the following Verified Answer are true and correct to the best of my knowledge, information, and belief:

The following is a Verified Answer to relevant portions of the text of the report of the Arkansas State Committee to the United States Commission on Civil Rights, which report is based on the information received during a two-day open meeting held in West Memphis, Arkansas, in November of 1971; the relevant portions of said report may tend to defame, degrade, or incriminate me/. Said portions were forwarded to me by Mr. Isaiah T. Creswell, Jr., Assistant Staff Director for Community Programming for the United States Commission on Civil Rights, on August 24, 1972. Hence my Verified Answer, pursuant to §702.18 of the Rules and Regulations of the United States Commission on Civil Rights, with regard to Mr. Prentiss Neal's allegation that I tried to hit them (two black pickets) on purpose, and to Mr. Neal's testimony relating to the incident in the courthouse where he alleges that I ran the blacks out of the courthouse by using a pistol, is that I was charged with the crimes of assault and possession of a prohibited weapon; a trail was held in the Municipal Court of Marianna, Lee County, Arkansas, wherein I entered a plea of Nolo Contendere, which plea was accepted by the Court. Attached hereto you will find copies of the Criminal Docket Sheets in Case Nos. 15157 and 15158.

Haskell A. Adams

Subscribed and sworn to before me, a Notary Public, on this the 31st day of August, 1972.

Notary Public

My Commission Expires:

10/5-73

GPO 874-031